

## Message Text

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ACTION EA-14

INFO OCT-01 ADP-00 IGA-02 MC-02 TRSE-00 CIAE-00 PM-07 H-02

INR-10 L-03 NSAE-00 NSC-10 PA-03 RSC-01 PRS-01 SS-15

USIA-12 AID-20 RSR-01 EB-11 COME-00 OMB-01 /116 W

----- 115548

R 031122 Z JUL 73

FM AMEMBASSY TOKYO

TO SECSTATE WASHDC 5017

INFO MARITIME ADMINISTRATION WASHDC

SECDEF WASHDC

CNO WASHDC

COMSC WASHDC

COMUSJAPAN FUCHU JAPAN

COMNAVFORJAPAN YOKOSUKA JAPAN

COMSCFE YOKOHAMA JAPAN

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E. O. 11652: NA

TAGS: MARR MASS XX JA US

SUBJECT: DISPOSAL OF SURPLUS USN VESSELS

REF: A. ADMIN COMSC 262022 JUN 73 ( NOTAL)

B. TOKYO 6449 DTG 240740 Z MAY 73 ( NOTAL)

SUMMARY: WE FORESEE MAJOR LEGAL AND PRACTICAL PROBLEMS  
WITH GOJ IN GOING AHEAD WITH CURRENT PROGRAM TO SELL  
THROUGH OPEN BIDDING EIGHT SURPLUS USN CARGO SHIPS  
NOW BERTHED IN YOKOSUKA. THESE SOFA- RELATED  
PROBLEMS ARE IDENTICAL WITH THOSE ENCOUNTERED OVER  
LAST SIX MONTHS IN CONNECTION TRANSFER OF LST' S TO  
THIRD COUNTRIES AND ON WHICH EMBASSY HAS REPORTED  
EXTENSIVELY. WE ALSO SEE PROBLEMS WITH HAVING MARAD  
TOKYO, A NON- SOFA BODY, ADMINISTER THIS SHIP DISPOSAL  
PROGRAM. ITS POTENTIAL PROBLEMS MAY BE SIMILAR TO THOSE  
WE ENCOUNTERED LAST FEBRUARY IN CONNECTION AID OFFICE  
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ON OKINAWA.

ACTION REQUESTED: URGENTLY REQUEST WASHINGTON REVIEW  
OF PROGRAM. END SUMMARY.

1. REF A DIRECTED MSC HQS AT YOKOHAMA TO ARRANGE FOR MARITIME ADMINISTRATION, EMBASSY TOKYO ( MARAD), TO TAKE OVER DISPOSAL OF TEN CARGO SHIPS IN ACCORDANCE WITH CNO REQUEST ( LTR 404 D/828 OF JUNE 25, 1973). WE UNDERSTAND THAT OUT OF TEN SHIPS NAMED REF A, FOLLOWING EIGHT ARE NOW BERTHED AT YOKOSUKA; USNS ASTERION, PERSEUS, PHOENIX, PROVO, CHEYENNE, HERKIMER, MUSKINGUM, AND SHORT SPLICE. THESE VESSELS, WHICH ARE ALL CREWLESS AND DEAD, ARE TO BE DISPOSED OF BY MOST EXPEDIENT AND ECONOMICAL MEANS ON AS IS/ WHERE IS BASIS.

2. WE FORESEE MAJOR LEGAL AND PRACTICAL PROBLEMS WITH THE GOJ IN GOING AHEAD WITH THIS PROGRAM. WE HAVE ENCOUNTERED THESE PROBLEMS AND REPORTED FULLY ON THEM ( E. G. REF B) IN CONNECTION TRANSFER OF THREE SURPLUS LST' S IN JAPAN TO THIRD COUNTRIES OVER PAST SIX MONTHS. IN EACH OF THESE CASES, GOJ HAS STIPULATED THAT TRANSFER COULD BE ACCOMPLISHED ONLY ON CONDITION THAT NO TRAINING OR LOGISTICAL SUPPORT IS PROVIDED SHIP' S BUYER BEFORE TRANSFER OF SHIP, AND THAT SHIP BE REMOVED FROM US FACILITY BEFORE SUNDOWN ON DATE OF TRANSFER.

3. GOJ' S BASIC POSITION IS THAT IT MAKES FACILITIES AND AREAS AVAILABLE TO US FORCES IN PRINCIPLE FOR THEIR USE ONLY, AND THAT IT CANNOT PERMIT OTHERS TO USE FACILITIES WITHOUT GOJ CONSENT BASED ON SOFA PROVISIONS. CONSEQUENTLY, IF SHIP' S BUYER IS SOFA ENTITY, SUCH AS US ARMY, THERE WILL BE NO PROBLEMS. IF BUYER IS NON- SOFA ENTITY OF US GOVT, WE THINK IT MAY BE POSSIBLE FOR US TO OBTAIN GOJ CONSENT TO HAVE SHIP ACCOMMODATED AT US FACILITY UNDER SOFA ARTICLE V. IF BUYER IS JAPANESE NATIONAL, GOJ MAY BE WILLING MAKE SIMILAR ACCOMMODATION UNDER ARTICLE II, BUT BUYER HIMSELF MUST ARRANGE FOR THIS WITH GOJ. ALL OTHER PURCHASERS, INCLUDING US PRIVATE BUYERS, WOULD  
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HAVE TO MEET GOJ CONDITIONS DESCRIBED PARA 2 ABOVE. BEFORE SUNDOWN ON DATE OF TRANSFER, THEY WOULD HAVE TO ARRANGE TO HAVE SHIP TOWED OUT OF JAPAN OR TO JAPANESE COMMERCIAL SHIPYARD. THEY SHOULD BE AWARE OF FACT THAT SHIPYARDS HERE ARE BOOKED SOLID AND UNABLE TAKE ON NEW WORK FOR SOME TIME TO COME.

4. IN ADDITION TO FOREGOING, WE FORESEE PROBLEMS WITH ADMINISTRATION OF PROGRAM BY MARAD, A NON- SOFA BODY ATTACHED TO EMBASSY. GOJ MAY WELL QUESTION LEGALITY OF MARAD ADMINISTERING DISPOSAL OF USN SHIPS IN JAPAN. PROBLEM WILL BE COMPOUNDED IF TITLE AND CUSTODY OF SHIPS WERE TRANSFERRED FROM MSC TO MARAD. GOJ MAY THEN CONSTRUE SHIPS TO BE SIMPLY PROPERTY DISPOSAL ITEMS AND NOT RPT NOT MEANS OF TRANSPORTATION WHICH COULD BE GIVEN SPECIAL DISPENSATION UNDER ARTICLE V OF SOFA ( PARA 3 ABOVE). GOJ COULD DEMAND REMOVAL OF SHIPS ASAP FROM YOKOSUKA. WE RECALL LEGALLY SIMILAR SITUATION RE AID ESTABLISHMENT ON OKINAWA LAST FEB. WHEN OPPOSITION PARTIES POINTED OUT THAT AID OFFICE AND PROPERTY WERE SITUATION WITHIN US BASE CONTRARY TO SOFA, GOJ DEMANDED THEIR IMMEDIATE REMOVAL.

5. ACTION REQUESTED: URGENTLY REQUEST WASHINGTON REVIEW OF PROGRAM IN JAPAN. WE STRONGLY RECOMMEND THAT PROSPECTIVE BUYERS BE MADE AWARE OF PROBLEMS DESCRIBED PARAS 2 AND 3 ABOVE, AND THAT THEY BE REQUIRED, AS A CONDITION OF SALE, TO COMPLETE ARRANGEMENTS SATISFACTORY TO GOJ FOR LOOKING AFTER SHIP BEFORE AND AFTER DATE OF TRANSFER. ALSO RECOMMEND THAT PROGRAM BE ADMINISTERED BY NAVY OR SOME OTHER SOFA BODY AND NOT RPT NOT MARAD. F THIS NOT POSSIBLE, REQUEST INSTRUCTIONS TO CONSULT WITH GOJ AND PENDING GOJ RESPONSE, RECOMMEND THAT NO STEPS BE TAKEN TO TRANSFER CUSTODY/ TITLE OVER SHIPS TO MARAD.

DECONTROL 1 2/31/73  
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\*\*\* Current Handling Restrictions \*\*\* n/a

\*\*\* Current Classification \*\*\* LIMITED OFFICIAL USE

## Message Attributes

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**To:** STATE  
**Type:** TE  
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